

REMARKS

The claims in this case were restricted into three Groups. Applicants have provisionally elected Group I, Claims 1-17 and 23-26. The Restriction Requirement is traversed.

For restriction to be proper, a burden must be placed on the Office in examining all claims. Applicants respectfully submit that assuming the particles in Group I and the methods of making particles in Groups II and III are materially different, the search for these particles and methods would occur in the same classes/subclasses given the fact that the particles in Group I are essentially the same particles produced in Group II and III methods. Thus, the same classes/subclasses would be searched because the same particles are relevant to Group I, Group II and Group III claims -- no burden would be placed on the Office in searching and/or examining all claims together. Accordingly, the Restriction Requirement is traversed.

Moreover, Applicants have provisionally elected, for search and examination purposes only, the species of polyorganosiloxane comprising aryl groups linked directly to the silicon atoms of the siloxane skeleton, particularly phenylpropylsilsesquioxane as disclosed in example 1 of the present application. However, the election of species requirement is traversed.

The reason underlying the designation by the Office of the different polymers as being patentably distinct is not explained in sufficient detail or by example, and as such represents only a conclusion, particularly in view of the fact that the identified species are related by operation and/or effect. Accordingly, division of each of these species is unsupported and improper. See, MPEP §§ 802.01 and 806.04 (b).

Application No. 10/726,557
Response to Restriction Requirement

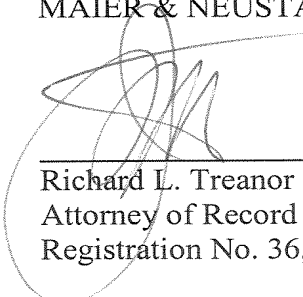
Moreover, for an Election of Species requirement to be proper, a burden must be placed on the Office in examining all species. Applicants respectfully submit that no such burden exists in this case.

Applicants respectfully submit that even assuming for the purposes of argument that the polymers are materially different from each other, the search for all such polymers would occur in the same classes/subclasses. Thus, no burden would be placed on the Office in searching and/or examining all claims together. Accordingly, the Election of Species Requirement is traversed.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits.

Respectfully submitted,

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